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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/526,683

11/06/2005

Yves Desarzens

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12/01/2006

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EXAMINER

GEORGE, TARA R

ART UNIT

PAPER NUMBER

3733

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/526,683

Applicant(s)

DESARZENS ET AL.

Examiner

Tara R. George

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3733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>03/02/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 2,7 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1. Claim 2 recites the phrase "substantially entirely recessed" in line 2. This phrase does not clearly define the limitations of the area defined by the internal junction, as "substantially entirely" is an oxymoron. Appropriate correction is required.
2. Claim 7 recites the limitation "the interface" in line 2. However, there is insufficient antecedent basis for this limitation in the claim since there is no earlier recitation or limitation of an interface in this claim and where it would be unclear as to which interface the limitation was referring to. Appropriate correction is required.
3. Claim 8 recites the limitation "the section removed" in line 1. However, there is insufficient antecedent basis for this limitation in the claim since there is no earlier recitation or limitation of a section removed in this claim and where it would be unclear as to which section the limitation was referring to. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

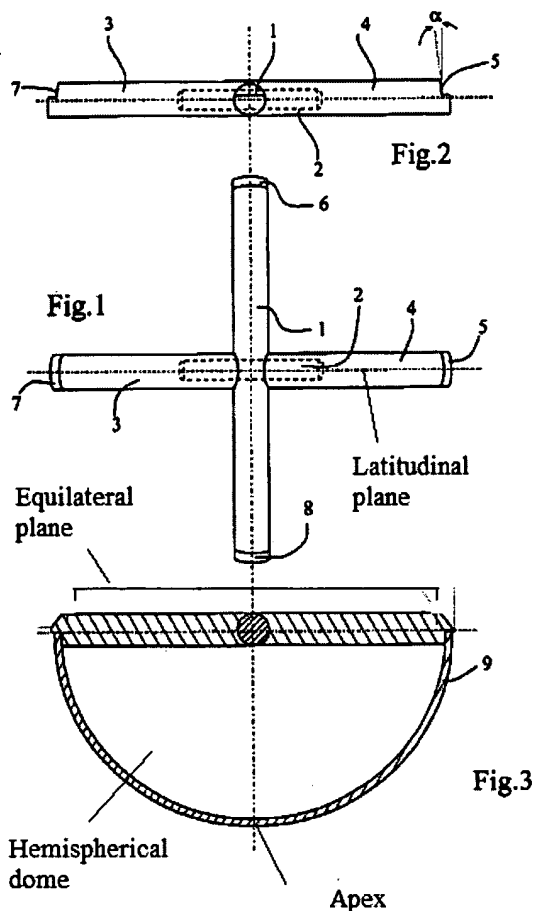
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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1,2,6,7,9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Lechot. (US 2002/0010470 A1).

Lechot discloses an acetabular reamer comprising a substantially hemispherical hollow dome defining an equilateral plane and an apex (see Figure 3 below and Column 2 lines 23-27). The interface structure is attached by at least one internal junction substantially recessed within the dome and above the equatorial plane (see Figure 3 below). The interface structure can also be fixedly attached either to the inside of the dome via a junction located approximately at the apex of the dome (see Figures 1-3 below) or inside the dome in region substantially along the latitude plane of the interface (see Figure 2 below). Lechot also discloses a reamer wherein the interface structure is a portion of at least one cross bar (see Figures 2-3 below) wherein the interface structure could also comprises of at least two equally spaced apart bars (see Figure 3 below).

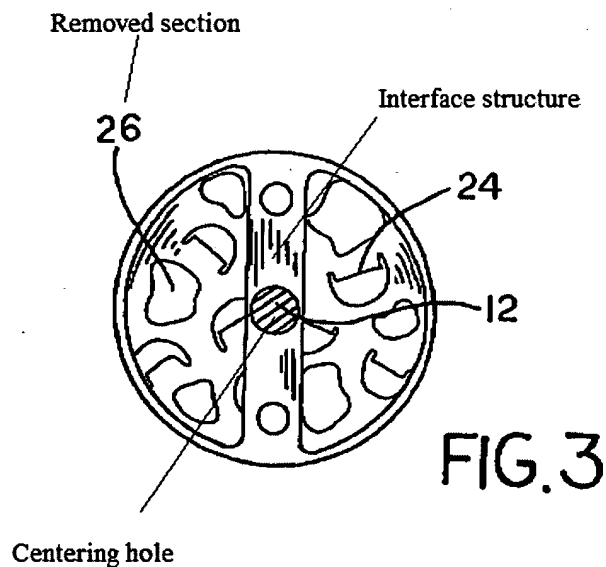
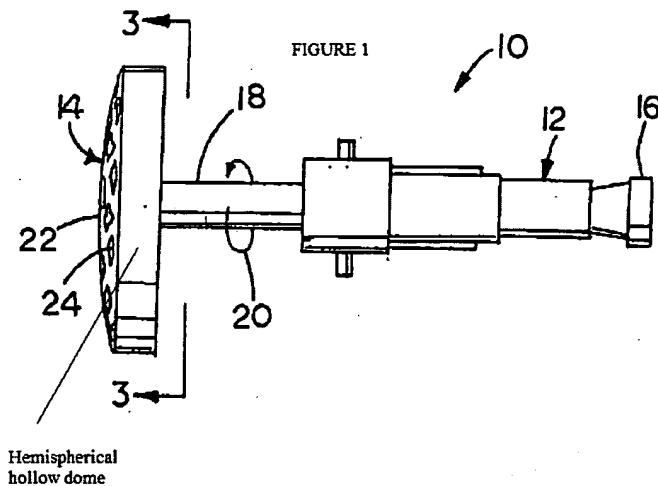


5. Claims 1-5,8,9,11 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Hathaway (US 2003/016135 A1).

Hathaway discloses an acetabular reamer comprising a hemispherical hollow dome and a spindle interface structure, which is fixed attached to the inside of the dome (see Figure 1 below, Figure 3 below, and Paragraph 0021 lines 1-5), and can also be substantially recessed within the dome above the equilateral plane (see Figure 3 below). The dome has at least one section 26 removed (see Figure 3 below and Paragraph 009 line 4) if not a plurality of sections removed (see Paragraph 8 lines 1-4),

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all of which can be equally spaced about the equator of the dome or render it asymmetrical (see Paragraph 0013 lines 1-4). The interface structure is also a portion of at least one cross bar that can have a central centering boss (see Paragraph 0020 lines 4-6) and a central centering hole (see Figure 3 below).



Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 13 is rejected under 35 U.S.C 103 (a) as being unpatentable over Lechot (US Pat. 6,702,819 B2) in view of Nordin (US Pat. 3,847,154).

Lechot discloses the claimed invention, which provides a reliable means for assembling a reamer to a handle for controlled rotation of the reamer (see Column 1 lines 1-4), except for the angled reamer spindle having a coupling element. Nordin discloses an angled reamer spindle having a coupling element that is used to attach a cutting element to a handle (see Column 1 lines 37-39), in order to provide a drilling system wherein the cutting element is always centered, while the handle allows for greater access to the drill site of the bone without compromising the controlled rotation of the drill. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to use the reamer of Lechot, with an angled spindle having a coupling means in view of Nordin, in order to provide a drilling system wherein the cutting element is always centered, while the handle allows for greater access to the drill site of the bone without compromising the controlled rotation of the drill.

Conclusion

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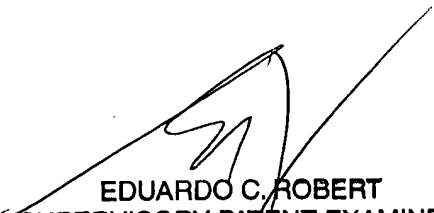
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892 for art of cited interest.

Any inquiry concerning this communication should be directed to Tara George whose telephone number is 571-272-3042. The examiner can normally be reached on M-F 8am-5pm. If attempts to reach examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert, can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or Public PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions about access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

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EDUARDO C. ROBERT
SUPERVISORY PATENT EXAMINER